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G&L Associated, Inc. d/b/a USA Fire Protection and Road Sprinkler Fitters Local Union No. 669, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO. Case 10-CA-038074

October 20, 2014

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA
AND SCHIFFER

On September 28, 2012, the Board issued a Decision and Order in this proceeding, which is reported at 358 NLRB No. 162, and on February 7, 2013, the Board issued an Order Denying Motion for Reconsideration, which is reported at 359 NLRB No. 59. Thereafter, the Charging Party filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit.

At the time of the Decision and Order and the Order denying motion for reconsideration, the composition of the Board included two persons whose appointments to the Board had been challenged as constitutionally infirm. On June 26, 2014, the United States Supreme Court issued its decision in *NLRB v. Noel Canning*, 134 S.Ct. 2550 (2014), holding that the challenged appointments to the Board were not valid. Thereafter, the Board issued an order setting aside the Decision and the Order and Order denying motion for reconsideration, and retained this case on its docket for further action as appropriate.

On July 8, 2014, the Charging Party filed a motion for consolidation and reconsideration. On July 17, the Respondent filed a brief in opposition to the Charging Party's motion. On September 22, 2014, the Charging Party filed an amended motion for consolidation and reconsideration.¹

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

In view of the decision of the Supreme Court in *NLRB v. Noel Canning*, supra, we have considered de novo the

¹ In its initial motion, the Charging Party sought to consolidate this case with *Austin Fire Equipment, LLC*, vacated decisions at 359 NLRB No. 3 (2012), and 359 NLRB No. 60 (2013). The Charging Party additionally requested that the Board permit additional briefing on the legal issues presented. The amended motion sought to consolidate this case with both *Austin* and *King's Fire Protection, Inc.*, 358 NLRB No. 156 (2012). We agree with the Respondent that the requested actions are not warranted, and we deny the Charging Party's motion.

judge's decision and the record in light of the exceptions and briefs. We have also considered the now-vacated Decision and Order and Order Denying Motion for Reconsideration, and we agree with the rationale set forth therein. Accordingly, we affirm the judge's rulings, findings, and conclusions and adopt the judge's recommended Order to the extent and for the reasons stated in the Decision and Order reported at 358 NLRB No. 162 and as modified below,² and the Order Denying Motion for Reconsideration reported at 359 NLRB No. 59, which are incorporated herein by reference.

ORDER

The National Labor Relations Board affirms the Order in its Decision and Order reported at 358 NLRB No. 162 as modified below and orders that the Respondent, G&L Associated, Inc. d/b/a USA Fire Protection, Clinton, Tennessee, its officers, agents, successors, and assigns, shall take the action in the Order as modified.

1. Insert the following as paragraph 2(c) and reletter the subsequent paragraphs.

"(c) Compensate affected employees for the adverse tax consequences, if any, of receiving any lump-sum backpay awards, and file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each employee."

2. Substitute the attached notice for that included in the above-cited Decision and Order.

Dated, Washington, D.C. October 20, 2014

Mark Gaston Pearce, Chairman

Kent Y. Hirozawa, Member

Nancy Schiffer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² We amend the remedy and modify the Order in the Decision and Order to provide that the Respondent will compensate unit employees for the adverse tax consequences, if any, of receiving any lump-sum backpay awards, and file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each employee. *Don Chavas, LLC d/b/a Tortillas Don Chavas*, 361 NLRB No. 10 (2014). We shall also substitute a new notice to conform to the Order as modified and in accordance with our decision in *Durham School Services*, 360 NLRB No. 85 (2014).

APPENDIX
NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with Road Sprinkler Fitters Local Union No. 669, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit during the term of the collective-bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL honor the terms and conditions of our 2007–2010 collective-bargaining agreement with the Union until its expiration on March 31, 2010, and any automatic renewal or extension of that contract.

WE WILL make employees whole for any loss of earnings and other benefits resulting from our unlawful withdrawal of recognition, plus interest.

WE WILL compensate affected employees for the adverse tax consequences, if any, of receiving any lump-sum backpay awards, and WE WILL file a report with the Social Security Administration allocating the backpay awards to the appropriate calendar quarters for each employee.

WE WILL make all contributions that we were required to make to contractual fringe benefit funds during the term of the collective-bargaining agreement, but which we have not made since September 8, 2009, and WE WILL reimburse you, with interest, for any expenses resulting from our failure to make the required payments.

G&L ASSOCIATED, INC. D/B/A USA FIRE
PROTECTION

The Board's decision can be found at www.nlrb.gov/case/10-CA-038074 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

